



Robert W. Quinn, Jr.
Senior Vice President
Federal Regulatory

AT&T Services, Inc.
1120 20th St., NW, Suite 1000
Washington, DC 20036
T: 202 457.3851
F: 202 457.2020

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Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W., Room TWB-204
Washington, DC 20554

RE: *Local Number Portability Porting Interval and Validation Requirements*,
WC Docket No. 07-244

Dear Ms. Dortch:

AT&T continues to support the Commission's goal of "ensur[ing] the efficiency and effectiveness of LNP for U.S. telephone consumers."¹ In particular, AT&T has backed the Commission's efforts to reduce the porting interval as one means to meet that goal. We have consistently argued in favor of reducing the porting interval for the majority of ports to 48 hours by having the Commission direct the industry, through the North American Numbering Council (NANC), to expeditiously re-engineer the wireline-to-wireline and intermodal porting processes to emulate the efficiencies of the existing wireless-to-wireless process. The ultimate goal of that effort should be a standardized and streamlined porting process that benefits *all consumers* regardless of the particular technology or systems used by their service providers.

While that effort is underway, the Commission should take affirmative steps to ensure that all providers adhere to its existing porting intervals in a way that delivers the benefits of those requirements — enhanced competition through more reliable porting — to consumers. In today's communications marketplace, consumers buy products in packages with little regard for the underlying technology or systems utilized to provide those services. Many communications services are offered in packages or bundles that combine multiple service offerings like video, voice, and Internet access (so called double-play and triple-play offerings). Given this marketplace reality, the Commission's goal in this proceeding should be to allow all consumers — irrespective of the service package they've chosen — to switch providers as quickly, effortlessly and seamlessly as possible. That goal cannot be achieved if certain types of providers are exempted from the porting requirements because of the technology, business arrangements, or system choices they have made.

AT&T understands, however, that certain providers are claiming to be excluded from the current simple porting interval requirements under the Commission's existing rules and are urging the Commission to maintain those exclusions when the Commission reduces that interval from four days to 48 hours.² For example, some cable VoIP providers assert that they are not subject to the

¹ *Telephone Number Requirements for IP-Enabled Services Providers; etc., Report and Order, Declaratory Ruling, Order on Remand, and Notice of Proposed Rulemaking*, 22 FCC Rcd 19531, 19560 (2007) (*LNP Order and NPRM*).

² Simple ports are presently defined as "those ports that: do not involve unbundled network elements, involve an account for a single line (porting a single line from a multi-line account is not a simple port), do not include complex switch translations (e.g., Centrex or Plexar, ISDN, AIN services, remote call forwarding, multiple services on the loop), may include CLASS features such as Caller ID, and do not include a reseller." *Telephone Number Portability, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking*, 18 FCC Rcd 23697 n.112 (2003).

porting interval for simple ports because they are “resellers” in that they “resell” a service purchased from an affiliated or unaffiliated CLEC. AT&T also understands that other cable VoIP providers claim that they are not subject to the interval for simple ports when their customers subscribe to double-play or triple-play packages because those packages involve “multiple services on the loop.” Neither argument matters to consumers who want to switch service providers in a timely manner and neither argument should dissuade the Commission from ensuring consumers receive the full benefits of its number porting rules. Indeed, with the rapid migration of voice services to IP platforms,³ exempting cable VoIP providers from the intervals for simple ports on these grounds would turn their existing customers into second-class citizens under the Commission’s porting rules by denying them “as quick and efficient a porting process as possible.”⁴

Contrary to the cable VoIP providers’ claims, the Commission’s existing rules do not countenance such a result. As an initial matter, the Commission has squarely held that interconnected VoIP providers, including cable VoIP providers, and their CLEC partners are subject to the Commission’s number porting requirements. As the Commission explained:

Interconnected VoIP providers that have not obtained a license or certificate of public convenience and necessity from the relevant states or otherwise are not eligible to receive numbers directly from the administrators may make numbers available to their customers through commercial arrangements with carriers (*i.e.*, numbering partners). *We emphasize that ensuring compliance with the Commission’s numbering rules, including LNP requirements, in such cases remains the responsibility of the carrier that obtains the numbering resource from the numbering administrator as well as the responsibility of the interconnected VoIP provider.*⁵

Beyond that, the claim by some cable VoIP providers that they are exempt from the porting intervals applicable to their competitors based on a “resale” or “multiple services on the loop” exclusion is specious. First, cable VoIP providers do not “resell” the service purchased from their affiliated or unaffiliated CLEC partners. As explained in the *Time Warner Order*, those CLECs provide wholesale *telecommunications services* to their cable VoIP provider customers.⁶ Cable VoIP providers then combine those services with a variety of other features and functionalities and deliver a retail VoIP service to their end-user customers, which the cable companies claim is an *information service*.⁷ Using a telecommunications service as an input into an entirely different service with a different regulatory classification is not “resale” of the telecommunications service. If it were, then the purchase of, for example, a PRI line by an ISP as an input into dial-up Internet access would be deemed the resale of PRI service by the ISP. Indeed, if the cable VoIP provider *was* reselling the telecommunications service provided by its CLEC partner, the cable VoIP providers would themselves be telecommunications carriers

³ See Comcast Press Release, *Comcast Now the Third Largest Residential Phone Services Provider in the U.S.* (March 11, 2009).

⁴ *LNP Order and NPRM*, 22 FCC Rcd at 19563.

⁵ *Id.*, at 19542-43 (emphasis added).

⁶ *Time Warner Cable Request for Declaratory Ruling that Competitive Local Exchange Carriers May Obtain Interconnection Under Section 251 of the Communications Act of 1934, as Amended, to Provide Wholesale Telecommunications Services to VoIP Providers*, Memorandum Opinion and Order, 22 FCC Rcd 3513, (2007) (*Time Warner Order*).

⁷ *LNP Order and NPRM*, 22 FCC Rcd at 19542n.62.

offering resold telecommunications services, not information service providers offering information services as they claim.

Also meritless is the claim by some cable VoIP providers that voice services sold in bundles with video and/or Internet access are outside the scope of the Commission's simple porting intervals because they involve "complex switch translations." The purported basis for this claim is the cable VoIP providers' contention that there are "multiple services on the loop." But the "complex switch translation" exclusion was intended to address a situation in which the multiple services being sold created a need for *multiple switch translations*. It was not intended to address a situation in which a provider was offering multiple services, only one of which required a switch translation, as is the case with the packages sold by cable VoIP providers — their non-voice services (Internet access and video) do not require switch translations at all.

In all events, even if such offerings did involve "resale" or "multiple services on the loop" (which they do not), the Commission should declare that the porting interval for "non-simple" (or "complex") ports with respect to cable VoIP services is the same as the porting interval applicable to simple ports. Indeed, in the *LNP Order and NPRM*, the Commission expressed concern that some providers may be gaming its porting requirements by claiming exemptions from those requirements for reasons that have no real bearing on the ability of the provider to port a customer's telephone number within the prescribed porting interval.⁸ To address those concerns, the Commission specifically sought comment on changes to "the LNP process more generally, including the port validation and porting intervals for *non-simple ports*."⁹ Thus, consistent with the Administrative Procedure Act, all providers were afforded notice of potential changes to the intervals for non-simple ports, and the Commission can and should apply the interval for simple ports to cable VoIP services.

Applying the simple port interval to cable VoIP services would ensure that customers who subscribe to double-play or triple-play bundles that include POTS or interconnected VoIP service are not deprived of a "quick and efficient" porting process. There will be no benefit to consumers if the porting process is not all inclusive; it must cover both traditional POTS providers and interconnected VoIP providers and it must apply regardless of whether the customer subscribes to a single, residential voice service or a double-play or triple-play package of voice, video, and Internet access services. Indeed, number porting is intended to "[a]llow[] customers to respond to price and service changes without changing their telephone numbers" thereby "enhance[ing] competition, a fundamental goal of section 251 of the Act, [and] helping to fulfill the Act's goal of facilitating 'a rapid, efficient, Nation-wide, and world-wide wire and radio communication service.'"¹⁰ The Commission saw the need in today's marketplace to extend the number porting obligation to interconnected VoIP providers, including cable VoIP providers. To allow some providers to dodge their LNP obligation to port within the same time interval as their competitors is indefensible and flies in the face of the Commission's stated recognition that "ensur[ing] regulatory parity among providers of similar services will minimize marketplace distortions arising from regulatory advantage."¹¹

In order to accomplish the laudable policy goal of making LNP more efficient and effective for all consumers, the Commission cannot exempt — or allow some providers to exempt themselves — from the newly streamlined porting process. Instead, to promote fair competition and serve

⁸ *Id.*, at 19563.

⁹ *Id.* (emphasis added).

¹⁰ *Id.*, at 19540.

¹¹ *Id.*

consumers' interests, any porting process adopted by the Commission must apply equally to *all* providers competing to serve those consumers.

Sincerely,

A handwritten signature in blue ink, reading "Robert Quinn", with a stylized flourish at the end.

Robert W. Quinn, Jr.
Senior Vice President-Federal Regulatory

CC: Nicholas Alexander
Rick Chessen
Randy Clarke
Scott Deutchman
William Dever
Al Lewis
Marcus Maher
Jennifer Schneider
Ann Stevens
Mark Stone
Julie Veach